

REMARKS/ARGUMENTS

Claims 23, 25, 28-31, 33-37 and 39-40 are in the Application and are presented for Examiner Piziali's consideration. Claims 1-22, 26-27, 32 and 38 are previously canceled. Please also cancel claim 24. Please amend claim 25 to correct for previous dependency on now-canceled claim 24. Please also amend claim 37 as shown.

Pursuant to 37 C.F.R. § 1.114, reconsideration of the present application in view of the foregoing amendments and following remarks is respectfully requested. This paper is being filed together with a Request for Continued Examination and an Information Disclosure Statement.

Claim objection, 37 C.F.R. §1.75(c).

By way of section 2 of the Office Action mailed July 11, 2006, claim 24 was objected to for failing to further limit the scope of a previous claim. Applicants thank the Examiner for bringing this to their attention. Claim 24 is canceled by this paper.

Claim rejection, 35 U.S.C. §112.

By way of sections 3-4 of the Office Action mailed July 11, 2006, claim 37 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicants thank the Examiner for bringing this to their attention. Claim 37 is amended by this paper to remove reference to laminates not containing meltblown. Applicants submit that claim 37 in its amended form should overcome the 35 U.S.C. §112 rejection.

Claim rejection, 35 U.S.C. §103(a) over Potts et al. in view of Simpson et al.

By way of sections 5-6 of the Office Action mailed July 11, 2006, claims 23-25, 28-31 and 33-37 were rejected under 35 U.S.C. §103(a) as allegedly being obvious and thus unpatentable over U.S. Pat. No. 5,145,727 to Potts et al. (hereinafter "Potts et al.") in view of U.S. Pat. No. 5,023,130 to Simpson et al. (hereinafter "Simpson et al."). This rejection is respectfully **traversed** to the extent applicable to the currently presented claims.

The invention as presently claimed in claim 23 is directed to topically treated nonwoven fabric laminate, the nonwoven fabric laminate comprising 0.05 weight percent to 0.5 weight percent of non-ionic fluoropolymer, the nonwoven fabric laminate comprising at least one spunbond layer and at least one meltblown layer, and the laminate further comprising a first surface and a second, opposing surface, wherein the first surface comprises a non-ionic fluoropolymer.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

The Office Action provided the Potts et al. reference for the disclosure of a treated nonwoven fabric wherein a first surface comprises repellent agent and another surface comprises an antistatic agent. However, Potts et al. did not teach non-ionic fluoropolymer repellents. In the Office Action, the Simpson et al. reference was provided for the disclosure of the non-ionic fluoropolymer (ZEPEL 7040) disclosed therein. The Office Action stated that it would be obvious for one skilled in the art to use the non-ionic fluoropolymer taught by Simpson et al. in the fabrics taught by Potts et al. as a selection from known materials being within the skill of the art, on the basis of the known material's suitability and desired characteristics.

Applicants respectfully disagree, and instead respectfully submit that the one skilled in the art would not be motivated to substitute the non-ionic fluoropolymer taught by Simpson et al. for those taught by Potts et al. Please note that the disclosure of Potts et al. is directed to internally added agents. That is, as taught by Potts et al., the repellent additive is to be added to the virgin polymer making up the bulk of the fibrous material. The thermoplastic fiber-forming polymer and the additive agent are then melted together and extruded in molten form to create the fibers. However, the fluoropolymer mentioned by Simpson et al. is a topically-added hydrophobic agent added by way of an aqueous

bath. That is, the bath agent taught in Simpson et al. and cited by the Office uses 4 percent of the non-ionic fluoropolymer in a liquid bath mixture that is otherwise made up of water (70 percent) and alcohol (26 percent).

Applicants respectfully submit that one skilled in the art would not be motivated to modify the internal melt additives taught by Potts et al. by attempting to use the topical bath-type fluoropolymer taught by Simpson et al. First, please note that one skilled in the art would recognize that a water-based (actually, water- and alcohol-based) additive in solution or emulsion form is completely incompatible with a thermoplastic melt extrusion process. One skilled in the art would further recognize that an attempt to add that type of additive into the melt extrusion process would most likely result in a failure of the melt extrusion process, rather than production of fluorochemically-treated fibers, as desired. Furthermore, one skilled in the art would recognize that fluorochemical additives can be quite chemically complex and would realize that a fluorochemical additive adapted for use as an emulsion bath treatment would be quite different from a fluorochemical additive adapted for use as a melt-extruded additive treatment.

Applicants have submitted herewith an Information Disclosure Statement listing U.S. Pat. No. 6,297,304 to Raiford et al. and assigned to E. I. du Pont de Nemours and Company. This reference is provided to rebut the allegations by the Office that the water-based emulsion repellent taught by Simpson et al. is a suitable repellent for the process and material of Potts et al., or the allegation that one of skill in the art would have found the emulsion repellent taught by Simpson et al. to be a suitable substitute for combination into the process and material taught by Potts et al. Specifically regarding Raiford et al., please note the Background discussion. Particularly, the Background section of Raiford et al. at column 1 lines 15-34 where it is discussed that the perfluorinated alkyl esters are generally topically applied, and lines 36-42 where it is discussed that it would be beneficial if such topical application could be replaced by incorporating the fluorochemical additive into the polymer melt prior, but that the "difficulty has been in finding suitably effective fluorochemical additives" (quote from lines 41, 42). Thus, Applicants submit it should now be clear that any fluorochemical repellent cannot necessarily be substituted for another

where the processes differ. That is, simply because two chemicals are both fluorine-based repellents does not make them interchangeable.

In addition, in column 1 at lines 54-58 Raiford et al. further state, "The requirements of an additive suitable for incorporating into a polyolefin melt include, besides the ability to repel low surface tension fluids at a low concentration of the additive, a satisfactory thermal stability and low volatility to withstand processing conditions." Thus, Applicants submit it should now be clear that different process conditions, especially the large differences inherent in a topical bath treatment process versus an internal melt processing treatment process, would lead one skilled in the art away from attempting to substitute a topical bath or aqueous treatment chemical for an internal melt additive treatment chemical. It may also be instructive to note that a co-inventor of the above-referenced Raiford et al. is Edward Greenwood. In section 8 of the Office Action mailed July 11, 2006, U.S. Pat. No. 5,296,282 to Evers was cited by the Office for the proposition that ZEPEL® 7040 is a perfluoroalkylethylacrylate. The patent cited by Evers as teaching these perfluoroalkylethylacrylate monomers is U.S. Pat. No. 4,742,140 to Edward Greenwood et al., and assigned to E. I. du Pont de Nemours and Company.

Therefore, for the reasons stated above, Applicants respectfully submit that the obviousness rejection under 35 U.S.C. §103(a) over Potts et al. in view of Simpson et al. should be withdrawn.

However, even if one skilled in the art were to combine Potts et al. and Simpson et al., one still would not arrive at Applicants' invention as presently claimed. As described above, the clear teaching of Potts et al. is to use internal melt additives for the fibers making their laminates. Therefore, according to the teachings of Potts et al., even if one skilled in the art were to use the non-ionic fluoropolymer as taught by Simpson et al. as a substitute internal melt additive, one still would not arrive at the laminate as claimed, which is a topically treated nonwoven fabric laminate, and wherein the nonwoven fabric laminate includes 0.05 weight percent to 0.5 weight percent of non-ionic fluoropolymer. In response to a similar argument made by Applicants, it was asserted in the Office Action mailed July 11, 2006 that Potts et al. teaches "topically treated" nonwoven because topically means,

"Of or belonging to a particular location or place." (Office Action at section 9, page 6, last paragraph). Applicants respectfully disagree, and assert that this construction of the word "topical" clearly ignores the common understanding of one skilled in the art of nonwoven making and treatment. For example, please note the above-cited sections of Raiford et al. which clearly make a distinction, as a term of art, as to a nonwoven having on it a topical versus a nonwoven having in it an internal melt additive.

Additional claims rejections, 35 U.S.C. §103(a); claim 33; claims 39-40

By way of section 7 of the Office Action mailed July 11, 2006, claim 33 was rejected under 35 U.S.C. §103(a) as allegedly being obvious and thus unpatentable over above-described Potts et al. in view of Simpson et al., and further in view of either of U.S. Pat. No. 4,000,233 to Gilbert et al. (hereinafter "Gilbert et al.") or 4,169,062 to Weipert (hereinafter "Weipert").

In addition, by way of section 8 of the Office Action, claims 39-40 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over the above-described combination of Potts et al. in view of Simpson et al., and further in view of U.S. Pat. No. 5,296,282 to Evers (hereinafter "Evers").

These rejections are respectfully **traversed** to the extent applicable to the currently presented claims. In the Office Action, Gilbert et al. or Weipert was combined with the primary references (Potts et al. in view Simpson et al.) to provide for the organic phosphate ester antistatic agent of claim 33. And, to provide for the non-ionic fluoroalkyl acrylate copolymer of claims 39-40, the disclosure of Evers was combined with the primary references (Potts et al. in view Simpson et al.). However, as described above, Applicants respectfully submit that the main references (combination of Potts et al. in view Simpson et al.) fail in terms of proper motivation to combine the references, are not combinable in any workable sense to one skilled in the art, and additionally fail, if they were to be combined, to disclose each and every element of Applicants' independent claim 23.

Therefore, because claims 33 and 39-40 depend ultimately from independent claim 23 and include all the elements of independent claim 23, Applicants submit that these additional combinations also fail to disclose all of the elements of Applicants' claims 33 and 39-40, and therefore respectfully submit that these rejections of claims 33 and 39-40 under 35 U.S.C. §103(a) should be withdrawn.

For at least the reasons stated above, it is respectfully submitted that all of the currently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at 770-587-8908. Should any issues remain after consideration of the remarks and explanations made herein, Examiner Piziali is invited and encouraged to telephone the undersigned at his convenience.

Respectfully submitted,

HUE SCOTT SNOWDEN ET AL.

By: /Robert A. Ambrose/
Robert A. Ambrose
Registration No.: 51,231

CERTIFICATE OF TRANSMISSION

I, Robert A. Ambrose, hereby certify that on December 11, 2006, this document is being transmitted to the United States Patent and Trademark Office, EFS-Web system.

By: /Robert A. Ambrose/
Robert A. Ambrose